LAWLER, METZGER, KEENEY & LOGAN, LLC

2001 K STREET, NW
SUITE 802
WASHINGTON, D.C. 20006

CHARLES W. LOGAN
PHONE (202) 777-7724

PHONE (202) 777-7700
FACSIMILE (202) 777-7763

February 25, 2010

Via Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: WT Docket Nos. 96-86 and 06-150 and PS Docket No. 06-229
Notice of *Ex Parte* Presentation

Dear Ms. Dortch:

On February 24, 2010, Michael Gottdenker and Andrew Rein of Access Spectrum, LLC (Access Spectrum), and I met with members of the Commission staff in three separate meetings concerning the above-referenced proceedings. In the first meeting we met with Ruth Milkman, John Leibovitz, James Schlichting, Joel Taubenblatt, Paul Murray, Peter Trachtenberg, Linda Chang, Paul D'Ari, Leon Jackler, and Saurbh Chhabra of the Wireless Telecommunications Bureau. In the second meeting, we met with Paul de Sa and Evan Kwerel of the Office of Strategic Planning and Policy Analysis. In the third meeting we met with James Arden Barnett, Jr., David Furth, Jeff Cohen, and Jeffery Goldthorp of the Public Safety & Homeland Security Bureau. In each of the meetings, Access Spectrum discussed the issues summarized in the attached slide presentation, copies of which were distributed during the meetings.

Pursuant to section 1.1206(b) of the Commission's rules, this letter and the attachment are being submitted for inclusion in the public record in the above-referenced proceedings.

Sincerely,

/s/ Charles W. Logan
Charles W. Logan

Attachment

cc: James Arden Barnett, Jr.
Linda Chang
Saurbh Chhabra
Jeff Cohen
Paul D'Ari
Paul de Sa
David Furth
Jeffery Goldthorp
Leon Jackler
Evan Kwerel
John Leibovitz
Ruth Milkman
Paul Murray
James Schlichting
Joel Taubenblatt
Peter Trachtenberg

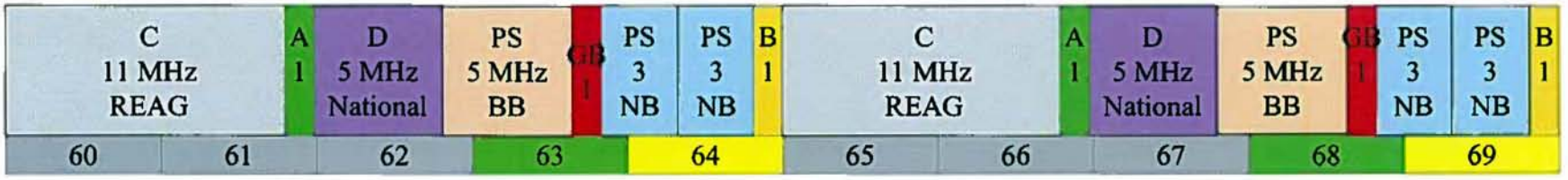
Repurposing the Upper 700 MHz A Block to Promote the FCC's National Broadband Plan

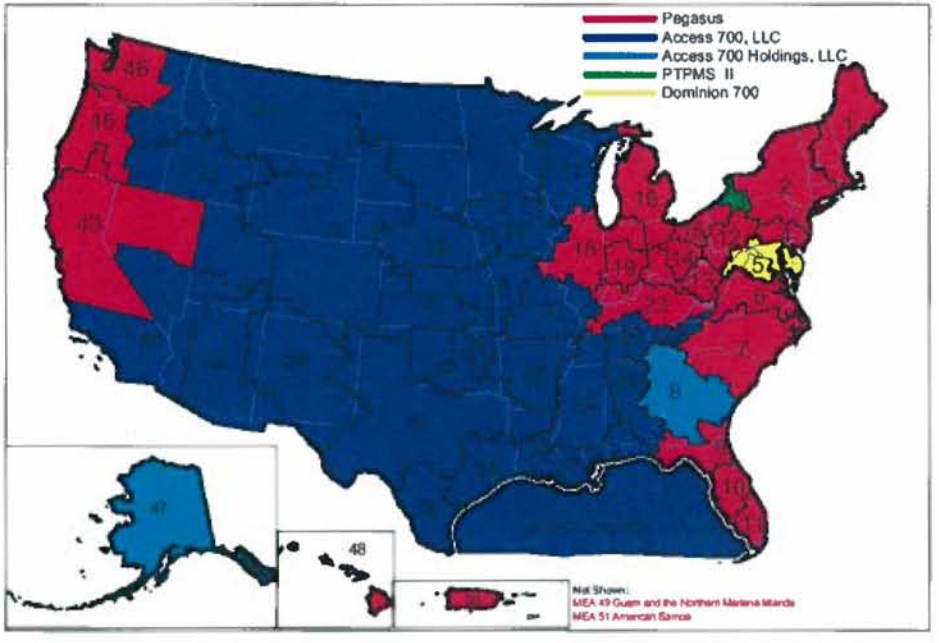
February 24, 2010

AccessSpectrum

Access Spectrum overview

- Access Spectrum and its affiliate Access 700 Holdings hold Upper 700 MHz A-Block licenses that cover ~50% of the United States





AccessSpectrum

Very valuable spectrum

- Chairman Genachowski has recognized a "looming spectrum crisis" resulting from the explosive growth of broadband and stated that "one of the FCC's highest priorities is to close the spectrum gap"

- A-Block frequencies, like other 700 MHz spectrum, are "beach-front property" – ideally suited to meet exploding consumer demand for wireless broadband

- To maximize potential for broadband use, 700 MHz frequencies must be configured to permit channel widths required by 4G technologies
  - LTE requires at least 1.4 MHz channel pairs and EvDO (CDMA 2000) requires at least 1.25 MHz channel pairs plus requisite buffers

Inefficiently configured

- Current A-Block configuration undermines FCC's broadband goals
  - Prevents the use of A-Block spectrum for 4G services and, if not corrected, will waste this extremely valuable spectrum
  - Will result in the deployment of non-4G technologies and services that may be incompatible with 4G systems in adjacent blocks

- In 2007, prior FCC rejected a proposal to configure A Block in 1.5 MHz pairs as part of broader reconfiguration of Upper 700 MHz band
  - The proposal rejected by the FCC would have avoided unjust enrichment concerns by granting A Block incumbents only the same number of MHz-pops they currently hold

Repurposing the A Block for broadband

- Increasing the size of the currently licensed A Block is now impractical
- Therefore, the FCC should establish incentives for A-Block incumbents to return their spectrum so that it can be repurposed
- This will promote a range of public interest benefits:
  - Advance broadband
  - Benefit public safety
  - Promote efficiencies
  - Establish a precedent for repurposing other spectrum bands
  - Ensure spectrum does not lie fallow or go underutilized

Repurposing the A Block: advance broadband

- There are several ways that the FCC could repurpose the A Block to advance its broadband goals
  - Combine the A Block with the adjacent D Block to increase broadband capacity and match band pairs in rest of 700 MHz band
    - This is supported by Clearwire, MetroPCS, Sprint, T-Mobile, the Rural Telecommunications Group, and Xanadoo
  - Combine the A Block with the Public Safety 700 MHz allocation
  - Explore other options for reconfiguring the A Block and auctioning it for different uses

Repurposing the A Block: benefit public safety

- There are several ways that repurposing the A Block could benefit public safety
  - Combining the A and D Blocks would create a larger, more valuable spectrum block and create a greater incentive for D Block licensees to enter into public-private partnerships that promote public safety broadband communications
  - Combining the A Block with Public Safety spectrum would provide a range of public safety benefits:
    - Additional spectrum to augment its broadband spectrum block
    - Additional spectrum to create larger guard band between Public Safety broadband and narrowband blocks
    - Additional spectrum for narrowband communications

Repurposing the A Block: promote efficiencies

- Combining the A Block with an adjacent spectrum block would increase spectral efficiency by removing a spectrum border (i.e., a place where two systems will have to reduce their use of spectrum to meet out-of-band-emissions limits)

- Combining the A Block with adjacent blocks would align the combined blocks with the remainder of the 700 MHz band thereby creating economies of scale
  - A/D or A/PSBB = 6 MHz pair, matching the 6 MHz pairings in the Lower 700 MHz A, B, and C Blocks
  - A/D/PSBB = 11 MHz pair, matching the 11 MHz pairing in the Upper 700 MHz C Block

Repurposing the A Block: establish a precedent

- Repurposing the A Block will establish a precedent for repurposing other spectrum bands for broadband
  - Establishing mechanisms for repurposing the A Block can be readily applied to other bands
  - Precedent will provide certainty and encourage licensees in other bands to repurpose their spectrum
  - Establishing repurposing framework is a critical step towards meeting the nation's growing need for broadband spectrum
  - Establishing a compensation scheme that encourages the return of spectrum can have the net effect of *increasing* auction revenues
  - Establishing a repurposing framework will promote economic growth by helping to ensure that spectrum is put to its highest and best use

Repurposing the A Block: ensuring spectrum does not lie fallow

- The FCC must seize every opportunity to provide additional spectrum for broadband
- Prior FCC missed such an opportunity in rejecting previous A Block proposals
- Current A Block spectrum continues to be un/underutilized solely as a result of a substandard licensing configuration
- The FCC can fix this now and ensure A Block spectrum does not lie fallow or go underutilized

Implementing a repurposing program

- There are many ways to provide incumbents incentives to return their spectrum for repurposing:
  - Transferable bidding credits
  - Two-sided auctions
  - Replacement spectrum in comparable bands
  - Some combination of the above

- A well-designed incentive program will accelerate FCC efforts to repurpose and rationalize current spectrum use

- The FCC has the legal authority to make use of these tools

Next steps

- The FCC should seek comment in its pending 700 MHz proceeding on:
  - The best way to repurpose the A Block
  - The appropriate mechanisms to implement this repurposing program